

# MANDATE

S.D.N.Y.-N.Y.C.  
08-cv-7820  
Cote, J.

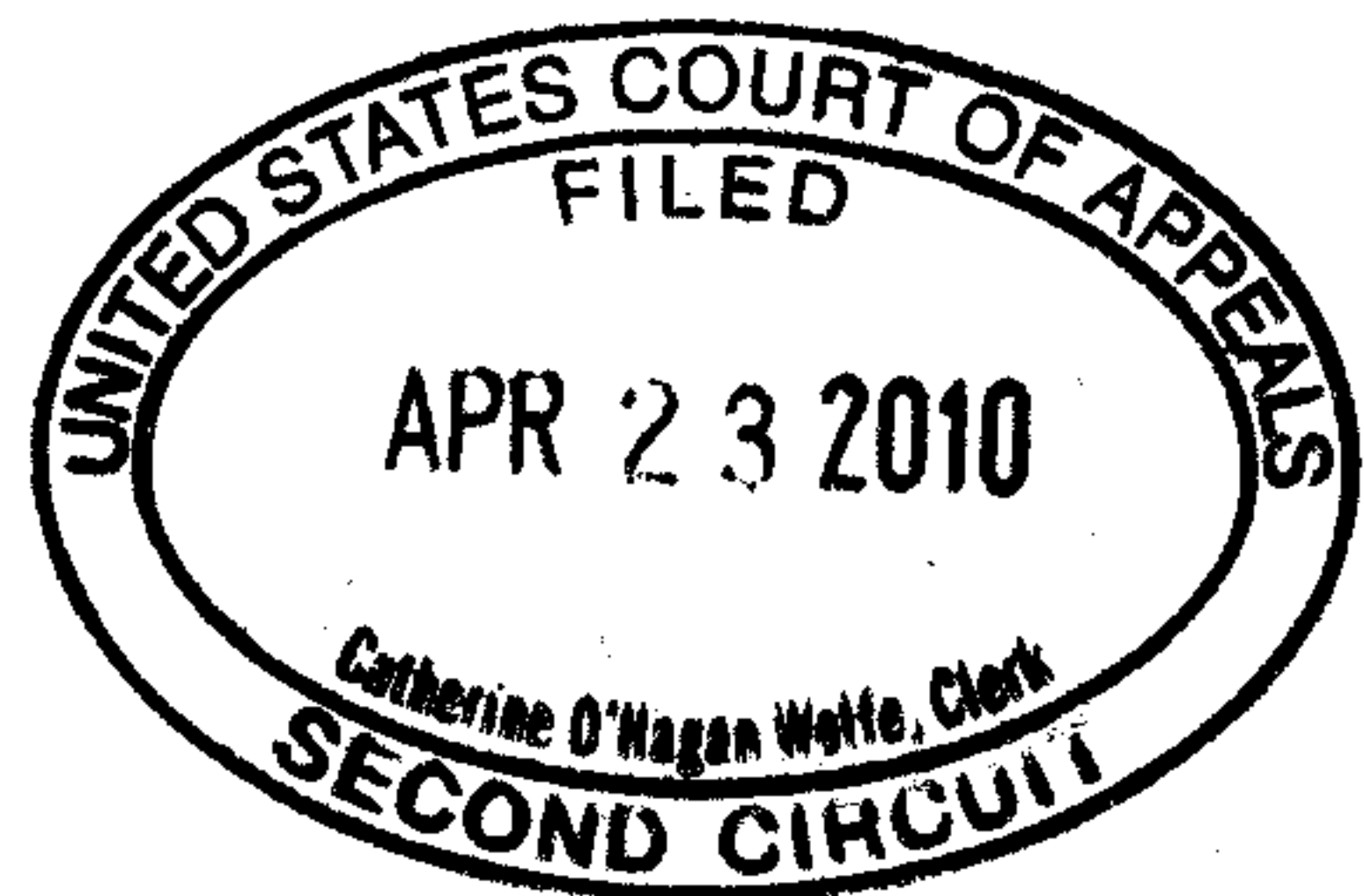
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United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 23<sup>rd</sup> day of April, two thousand ten,

Present:

Rosemary S. Pooler,  
Debra Ann Livingston,  
*Circuit Judges,*  
David G. Trager,\*  
*District Judge.*



George Tucker,  
*Petitioner-Appellant,*

v.

09-3952-pr

Louis Marshall, Superintendent, Sing Sing  
Correctional Facility,  
*Respondent-Appellee.*

Appellant, through counsel, moves for a certificate of appealability and leave to proceed *in forma pauperis*. Upon due consideration, it is hereby ORDERED that the motions are DENIED as to all of Appellant's claims, except for his challenge to the constitutionality of his sentence as a persistent felony offender. As to that claim, it is hereby ORDERED that decision on the motions is DEFERRED pending issuance of decisions in *Besser v. Walsh*, 05-4375-pr; *Portalatin v. Graham*, 07-1599-pr; *Phillips v. Artus*, 06-3550-pr; *Morris v. Artus*, 07-3588-pr; and *Washington v. Poole*, 07-3949-pr. Once decisions are issued in these cases, the motions will be decided by a new panel in the ordinary course.

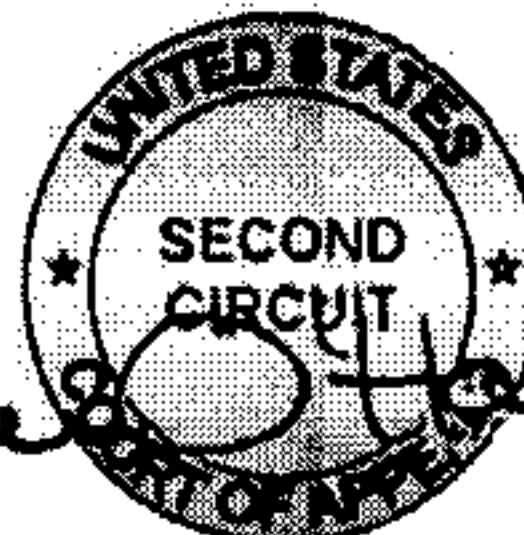
FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe



Catherine O'Hagan Wolfe

MANDATE ISSUED ON 01/10/2011 United States District Court for the Eastern District  
of New York, sitting by designation